



UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 08 2005

Director's Office
Office of Patent Publication

In re Application of :
Kia Silverbrook, et al. :
Application No. 09/113,071 : **DECISION ON PETITION**
Filed: July 10, 1998 :
Attorney Docket No. ART32US :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on March 14, 2003, and resubmitted on November 1, 2004 and March 15, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be submitted within TWO (2) MONTHS from the mail date of this decision.

The application was held abandoned for failure to timely file new formal drawings as required in the Notice of Allowability, mailed September 2, 2002. Accordingly, the Notice of Abandonment was mailed on January 21, 2003.

Petitioner has enclosed the Statutory Declaration from Leonie Frances News, which states that it confirms that "The formal drawings for Fig. 2 was sent to the USPTO by facsimile on December 15, 2000."

Investigation of the patent application file (IFW image) reveals that the Notice of Allowability mailed September 2, 2002, indicated in item 8, that "Corrected Drawing must be submitted and in item 8 (b) "including changes required by the proposed drawing correction filed 12/18/00, which has been approved by the Examiner."

Applicant, is advised, that where a requirement is made and no petition is filed within the period set forth in 37 CFR §1.181(f) traversing the requirement made in the Notice of Allowability, petitioner is assumed to have acquiesced to the requirement. Therefore, this application became abandoned for failure to timely file corrected formal drawings or to file a grantable petition traversing the requirement for formal drawings.

Should applicant be confronted with this situation in the future, applicant may timely reply in writing (see 37 CFR § 1.2) and traverse such a requirement much as was done in the petition. Applicant has the option to contact the examiner, requesting that he or she, in an Examiner Interview Summary Form or a Supplemental Notice of Allowability, which must be mailed prior to the expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement.

Petitioner may seek relief by the filing a Petition to Revive An Abandoned Application under 37 CFR § 1.137 (a) or (b).

■ Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must include the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and pursuant to paragraph (d) of this section.

■ Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

Telephone inquiries relating to the filing of the Petition under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner For Patents
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquiries relating to this decision may be directed to the undersigned at 703-305-8380.



Thomas E. Hawkins
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